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| <b>STATE OF IOWA</b><br><b>DEPARTMENT OF CORRECTIONS</b><br><br><b>POLICY</b><br><b>AND PROCEDURES</b>            | Policy Number<br><br>PREA-02   | Applicability<br><input checked="" type="checkbox"/> DOC<br><input type="checkbox"/> CBC |
|   | Policy Code<br><br>Confidential  | Iowa Code Reference<br><br>709.16, 702.17,<br>904.402, 904.602                           |
| Chapter 11<br><br>PRISON RAPE ELIMINATION ACT<br>(PREA)   | Related DOC Policies<br><br>AD-PR-13, IO-SC-12,<br>IO-SC-22, PREA-01,<br>PREA-04, HSP-305,<br>HSP-628  | Administrative Code<br>Reference<br><br>N/A  |
| Subject<br><br>STAFF, CONTRACTOR, OR<br>VOLUNTEER SEXUAL<br>MISCONDUCT/ HARASSMENT/<br>RETALIATION WITH OFFENDERS | ACA Standards<br><br>4-4281-3, 4-4281-6,<br>4-4281-7, 4-4281-8<br><br>PREA Standards<br>115.6, 11(a-b), 17(g),<br>21(a)(d-e)(h),<br>22(a-b)(d), 33(a),<br>34(a-d), 51(a-d),<br>53(a-c), 54, 61(a-b)(e),<br>62, 63(a-d),<br>64(a)(1-4)(b), 65,<br>67(a-f),<br>71(a-f)(1)(2)(g-l), 72,<br>73(a-c)(e-f), 76(a-d),<br>82(b), 86(a-e) | Responsibility<br><br>Diann Wilder<br>Tomlinson  |
|   | Effective Date<br><br>October 2016   | Authority<br><br>Jerry Bartruff<br>Director<br>Signature on file at<br>Iowa DOC          |

## I. PURPOSE



To describe the procedures that shall be used at all Iowa Department of Corrections (IDOC) institutions to ensure sexual misconduct, sexual harassment,

or retaliation between staff, contractors, or volunteers and offenders does not occur.

## **II. POLICY**

It is the policy of the IDOC to prohibit all staff, contractors, and volunteers from engaging in sexual misconduct, sexual harassment, and retaliation with offenders. The inherent difference in power makes any consensual relationship between staff, contractors, or volunteers and offenders impossible. Engaging in an unauthorized relationship may result in criminal prosecution and/or employment termination. IDOC has zero tolerance for sexual misconduct of any kind. **(4-4281-6)(PREA 115.11(a), 51, 65))**

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## **III. DEFINITIONS - As used in this document:**

- A. Allegation - Any event that is said to have happened, but which has not yet been verified. These events may include rumor and "offender talk."

- B. First Responders - The first staff to arrive at the scene of a sexual assault.
- C. Intimacy - Other sexually inappropriate behavior not defined as sexual misconduct or sexual harassment of an offender including, but not limited to, kissing, intimate or flirtatious conversation or touching parts of the body not defined under sexual contact. This involves behavior unrelated to the performance of job duties.
- D. Invasion of Privacy - Intentionally observing, attempting to observe, or interfering in an offender's activities, which involves hygiene or personal care, without a sound job-related reason. Any act by any staff that is considered to be reasonable and a necessary part of official duties and responsibilities shall not be regarded as an invasion of privacy.
- E. Inspector General - Deputy level Supervisor appointed by the Director whose responsibility includes direct supervision of the PREA Coordinator and statewide oversight of PREA implementation and compliance within Institution and Community Based Corrections (CBC).
- F. Inspector General's Office (IGO) - Division of internal and sexual violence investigations located in Central Office.
- G. Memoranda of Understanding (MOU) - Agreements between community rape crisis centers and each IDOC institution that delineate the responsibilities of each entity to provide offenders with confidential emotional support services related to sexual violence. **(PREA 115.53(c))**
- H. PREA - Prison Rape Elimination Act.
- I. PREA Coordinator - The person designated by the Director with the sufficient time and authority to serve as the department-wide coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards in all IDOC institutions. **(PREA 115.11(b))**
- J. Qualified staff member - An IDOC staff member who has been screened for appropriateness to serve as a victim advocate and has received approved education concerning sexual assault and forensic examination issues in general. **(PREA 115.21(h))**
- K. Retaliation - Includes, but isn't limited to an act of vengeance, covert or overt action or threat of action, or harassment against an offender, staff, contractor, or volunteer in response to a complaint of sexual misconduct or sexual harassment or cooperation in the reporting or investigation thereof,

regardless of the merits or the disposition of the complaint. Examples of acts of retaliation include but are not limited to: unnecessary discipline, changes in work or program assignments, unjustified transfers or placements, unjustified denials of privileges or services, intimidation, threats, assaults, or other physical violence.


- L. Sexual Abuse - Includes but is not limited to incidents when the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse and the contact includes, but is not limited to, intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person. Sexual abuse excludes contact incidental to a physical altercation with no sexual intent for the contact. Also referred to as abusive sexual contact. **(PREA 115.6)**
- M. Sexual Assault - Incidents when the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse and the contact consists of contact between the genitalia or between genitalia and anus including penetration, however slight; or contact between the mouth and the genitalia or anus; or penetration of the anal or genital opening of another person by hand, finger, or other object. **(PREA 115.6)**
- N. Sexual Harassment - Sexual advances, requests for sexual favors, or repeated verbal statements, comments, gestures or actions of a sexual nature directed towards an offender including, but not limited to:
  - 1. Demeaning references to gender, sexually suggestive or derogatory comments about body or clothing;
  - 2. Profane or obscene language or gestures. **(PREA 115.6)**
- O. Sexual Misconduct - Any behavior or act of a sexual nature directed toward an offender, whether it appears to be consensual or nonconsensual. This includes, but is not limited to, acts or attempted acts of:
  - 1. Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire.
  - 2. Completed, attempted, threatened, or requested sexual acts.
  - 3. Occurrences of indecent exposure including display of uncovered genitalia, buttocks, or breasts, invasion of privacy.
  - 4. Voyeurism for sexual gratification including invasion of privacy unrelated to official duties, such as staring or glaring at an offender

using the toilet for longer periods of time than necessary for security checks, requiring an offender to expose buttocks, genitals or breasts for reasons not related to approved security measures or normal medical procedures, or taking images of the same. **(PREA 115.6)**

5. Requiring or allowing an offender to engage in sexual contact, sexual intercourse, or other sexual conduct for any reason.
  6. Receiving any form or type of communication of a sexual or romantic nature from an offender and failing to report the communication immediately as designated by institution procedure and department policy.
  7. Influencing or making promises regarding, but not limited to, an offender's safety, custody, parole status, privacy, housing, privileges, work assignment, or program status in exchange for sexual favors or because an offender refused to submit to a sexual advance. This includes an exchange of anything of value between staff, a contractor, or volunteer and an offender (e.g. putting money into or promising to put money into an offender's account or bringing in or promising to bring in contraband for an offender in exchange for sexual favors.)
- P. Sexual Violence - A general, umbrella term that encompasses all forms of nonconsensual sexual behavior.
- Q. Staff Aggressor - Any staff committing sexual misconduct against an offender.
- R. Staff - Refers to an employee, vendor, or agent of the IDOC.
- S. Victim - A person against whom sexual misconduct, sexual harassment, or retaliation is committed or attempted.
- T. Victim Advocate - A staff member or volunteer from Iowa Coalition Against Sexual Assault (IowaCASA) or an Iowa sexual assault/rape crisis center who is certified by IowaCASA under **Iowa Code 915.20A**, and whose responsibilities include services to survivors of sexual assault in Iowa's correctional institutions; renders support and assistance, provides individual and group counseling, and delivers on-going training and technical assistance.
- U. See IDOC Policy **AD-GA-16** for additional Definitions.

## IV. PROCEDURES

### A. General Provisions

1. Acts of sexual misconduct or sexual harassment with offenders or retaliation against offenders who refuse to submit to sexual advances or who reported the same are prohibited.
2. When an institution learns that an offender is subject to a substantial risk of imminent sexual violence, it shall take immediate action to protect the offender. **(PREA 115.62)**
3. All allegations and incidents of sexual misconduct, sexual harassment, retaliation, staff neglect or violation of responsibilities that may have contributed to such incidents, or that indicate a personal relationship by staff with offenders shall be reported to the Warden, the institution's sexual violence investigator, and the Inspector General or designee. All allegations and incidents shall be fully investigated as directed by the Inspector General or designee and treated in a confidential and serious manner.
4. Each institution shall establish a method to receive third-party reports of sexual violence, retaliation, or staff neglect or violation of responsibilities that may have contributed to such incidents and shall distribute publicly information on how to report the same on behalf of an offender. Each institution shall immediately report all allegations of sexual violence, including third-party and anonymous reports and allegations to the Inspector General or designee and to the institution's sexual violence investigator. **(PREA 115.54, 61(e))**
5. Each institution shall provide a method for staff to privately report sexual violence against offenders. **(PREA 115.51(d))**
6. All offenders shall be advised of their right to be free of sexual misconduct, sexual harassment, and retaliation from staff.
7. All records associated with claims of sexual misconduct, sexual harassment, or retaliation 

8. The Inspector General or designee shall ensure that an administrative or criminal investigation is completed for all allegations of sexual violence, sexual misconduct, sexual harassment, or retaliation. **(PREA 115.22(a))**
  9. All sexual violence investigations are confidential under Iowa statute and administrative rules. Other than reporting to supervisors or the institution's sexual violence investigator or PREA Compliance Manager, staff shall not reveal any information related to a report to anyone other than to the extent necessary, as specified in IDOC policy, to make treatment, investigation, and other security or management decisions. **(PREA 115.61(b))**
  10. The Inspector General or designee shall determine when the evidence is sufficient for criminal prosecution and shall refer appropriate incidents to criminal authorities. All referrals shall be documented. **(PREA 115.22(b), 71(h))**
  11. IDOC shall publish the sexual violence investigation policies on its website. **(PREA 115.22(b))**
  12. IDOC shall make best efforts to ensure that any other State entity responsible for conducting administrative or criminal investigations of sexual violence, sexual misconduct, or sexual harassment in IDOC facilities shall have in place a policy governing the conduct of such investigations. **(PREA 115.22(d))**
  13. No contact of any kind shall be allowed between an offender and a former DOC staff member, contractor, or volunteer when both were subjects of a substantiated sexual violence investigation. This includes, but is not limited to, no contact via telephone, O-mail, or U.S. Mail and no deposits by the former staff member, contractor, or volunteer to the offender's accounts.
- B. Reporting of Staff, Contractor, or Volunteer Sexual Misconduct, Sexual Harassment, Retaliation, or Neglect of Duty
1. Reporting to Other Confinement Facilities
    - a. Upon receiving an allegation that an offender was sexually assaulted, sexually abused, or subjected to staff, contractor, or volunteer sexual misconduct while confined at another facility, the Warden shall immediately notify the Inspector General or designee. The Inspector General or designee shall

notify the facility or appropriate office of the agency where the alleged abuse occurred. **(PREA 115.63(a))**

- b. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. **(PREA 115.63(b))**
- c. The Inspector General or designee shall document that such notification has been provided. **(PREA 115.63(c))**
- d. The Inspector General or designee shall ensure that the allegation is investigated in accordance with the requirements of the PREA standards. **(PREA 115.63(d))**

2. Initial Report

- a. An offender may report staff, contractor, or volunteer sexual misconduct, sexual harassment, or retaliation or staff neglect or violation of responsibilities that may have contributed to such incidents in any way, including:

(1.) To a staff member.

(2.) Send a staff message or letter to the institution Warden.

(3.) Send a letter to:

Victim and Restorative Justice Director  
Iowa Department of Corrections  
510 East 12th Street  
Des Moines, IA 50319  
**(4-4281-7)(PREA 115.51(a))**

(4.) Send a letter to:

The Iowa Ombudsman Office  
Office of Citizens' Aide/Ombudsman  
Ola Babcock Miller Building  
1112 East Grand  
Des Moines, IA 50319  
**(PREA 115.51(b))**

- b. Report by an offender, anonymously, or from third parties - Any staff member who receives a report of sexual misconduct, sexual harassment, retaliation, or of staff neglect or violation of responsibilities that may have contributed to such incidents or whether verbally or in writing from an offender, anonymously, or from third parties, shall immediately notify the Shift Supervisor and complete an incident report. **(4-4281-7)(PREA 115.51(c))**
  - c. Report by a staff member - All staff shall report immediately any knowledge, suspicion, or information whether verbally or in writing regarding:
    - (1.) An incident of sexual assault, sexual abuse, sexual misconduct, or sexual harassment that occurred in a facility, whether or not it is part of IDOC;
    - (2.) Retaliation against offenders or staff who reported such an incident;
    - (3.) Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. **(4-4281-3)(PREA 115.61(a))**
  - d. The institution's sexual violence investigator or other designated staff person shall immediately complete an Incident Report in the PREA Investigation Database and finalize and submit it. The Inspector General or designee shall assign investigators and manage the investigation.
3. First Responders - The first staff on the scene of a sexual assault shall:

[REDACTED]

[REDACTED]

[REDACTED]



e. See IDOC Policy **IO-SC-22**, *Evidence Handling*.

4. Offender Access to Outside Confidential Support Services

- a. The Each institution shall provide offenders with access to outside victim advocates for emotional support services related to sexual violence by giving offenders mailing addresses and telephone numbers. The institution shall enable reasonable communication between offenders and these organizations and agencies, in as confidential a manner as possible. **(PREA 115.53(a))**
- b. The institution shall inform offenders, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of sexual violence will be forwarded to authorities in accordance with mandatory reporting laws. **(PREA 115.53(b))**
- c. The institution PREA Compliance Manager in association with the PREA Coordinator shall enter into or attempt to enter into a memoranda of understanding or other agreement with community rape crisis service providers. Each institution shall maintain copies of agreements or documentation showing attempts to enter into such agreements. **(PREA 115.53(c))**

C. Duties of the Director's Office

- 1. The IDOC shall develop a consistent statewide process for reporting and investigating incidents of sexual misconduct, sexual harassment, retaliation by staff, contractors, and volunteers, or staff neglect or violation of responsibilities that may have contributed to such incidents. This process shall include multiple points of reporting, trained investigators, and a consistent investigative process. **(PREA 115.65)**

2. The Inspector General or designee shall:


- a. Develop, implement, and oversee IDOC efforts to comply with the requirements of the Prison Rape Elimination Act standards and any other requirements by the Department of Justice as to staff sexual misconduct and sexual harassment in correctional facilities.



- c. Determine when the evidence of staff, contractor, or volunteer sexual misconduct or retaliation is sufficient for referral for criminal prosecution and shall refer appropriate incidents to county attorneys. Under Iowa Code 709.16, an officer, employee, contractor, vendor, volunteer, or agent of the department of corrections, or an officer, employee, or agent of a judicial district department of correctional services, who engages in a sex act with an individual committed to the custody of the department of corrections or a judicial district department of correctional services commits an aggravated misdemeanor. See **Iowa Code 702.17** for the criminal code definition of a sex act. **(PREA 115.6, 71(h))**


D. Duties of Staff, Contractors, and Volunteers

1. Staff, contractors, and volunteers shall adhere to all the procedures and guidelines of this policy and shall ensure their conduct does not constitute or promote sexual misconduct or in any way violates the provisions of this policy.
2. It is mandatory that all allegations and incidents of sexual misconduct, sexual harassment, retaliation, or neglect or violation of duty that may have contributed to an incident shall be immediately reported to their supervisors. **(4-4281-3)**
3. Staff, contractors, and volunteers shall provide complete cooperation and shall not interfere with the official process of the investigation.

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4. Staff shall not retaliate upon knowledge of sexual misconduct allegations. **(PREA 115.67(a))**

E. Duties of Warden

1. The Warden is responsible for ensuring that their policies, training and culture address the issues of sexual misconduct, sexual harassment, retaliation, and staff neglect or violation of responsibility that may have contributed to such incidents.
2. The Warden shall ensure offenders are provided with information about behaviors that constitute sexual misconduct, sexual harassment, and retaliation, ensure that the offenders understand the process by which such incidents are reported and investigated, and ensure offenders understand consequences for making false allegations. **(PREA 115.33(a))** See IDOC Policy **PREA-01**, *Offender PREA Information*.

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4. The Warden shall assure the immediate notification to the Inspector General or designee and the institution's sexual violence investigator of all allegations of sexual misconduct, sexual harassment, retaliation, and staff neglect or violation of duty that may have contributed to such incidents.
  5. The Warden shall ensure that the needs of both the accused and the accuser are attended to and met in the investigation process.
  6. The Warden shall ensure that, regardless of the outcome of any investigation, the accuser shall receive notice that the investigation is completed and the accused shall have the results explained.
  7. All actions taken shall be documented.

F. Duties of the Shift Supervisor

The Shift Supervisor shall assure that:

[REDACTED]

[REDACTED]

3. The institution's sexual violence investigator or other designated staff person shall immediately complete an Incident Report in the PREA Investigation Database and finalize and submit it. The Inspector General or designee shall assign investigators and oversee the investigation.

[REDACTED]

[REDACTED]

6. The offender victim is offered the opportunity to meet with a victim advocate from a community crime victim center. If an advocate from the community is not available to provide victim advocate services, the shift supervisor shall ensure that the opportunity to meet with a qualified staff member is offered to the victim. The effort to secure services from the community shall be documented.

[REDACTED]

[REDACTED]

7. If requested by the victim, the victim advocate or qualified staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. All counseling sessions shall be held in a private area. Counseling may continue for up to six sessions. **(4-4281-3)(4-4381-7)(PREA 115.21(e))**
8. The accused staff member is given information on the Employee Assistance Program in writing.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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H. Reporting to Offenders

1. Following an investigation into an allegation of staff sexual misconduct the sexual violence investigator shall inform the offender victim as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded, using **PREA-02 F-4, Investigator's Closure Letter to Offender. (PREA 115.73(a))**
2. If IDOC did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the offender. **(PREA 115.73(b))**
3. Following a substantiated or unsubstantiated investigation of an allegation of staff sexual misconduct, the institution shall subsequently inform the offender victim whenever:
  - a. The staff member is no longer posted within the offender's unit;
  - b. The staff member is no longer employed at the facility;
  - c. The institution learns that the staff member has been indicted on a charge related to sexual misconduct within the facility;
  - d. The institution learns that the staff member has been convicted on a charge related to sexual misconduct within the facility. **(PREA 115.73(c))**
4. All such notifications or attempted notifications shall be documented. **(PREA 115.73(e))**

5. IDOC's obligation to report shall terminate if the offender is released from the IDOC's custody. **(PREA 115.73(f))**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

J. Specialized Training for Sexual Violence Investigators

1. In addition to the general training provided to all employees, the Inspector General shall ensure that, to the extent IDOC conducts sexual violence investigations, its sexual violence investigators have received specialized training in conducting such investigations in confinement settings. **(PREA 115.34(a))**
2. Specialized training shall include, but is not limited to, techniques for interviewing sexual assault and sexual abuse victims, proper use of Miranda and Garrity warnings, the impact of the Peace Officers' Bill of Rights, sexual assault evidence collection in confinement settings, characteristics and behavior indicators of sexual violence perpetrators and victims in correctional settings, credibility

assessments, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. **(PREA 115.34(b))**

3. The Inspector General shall maintain documentation that PREA sexual violence investigators have completed the required specialized training in conducting such investigations. **(PREA 115.34(c))**
4. IDOC shall make its best efforts to ensure that any other State entity or Department of Justice component that investigates sexual violence in confinement settings shall provide the required specialized training to its agents and investigators who conduct sexual violence investigations in IDOC facilities. **(PREA 115.34(d))**

K. Sexual Violence Incident Reviews

1. The institution, in association with the PREA Coordinator, shall conduct a sexual violence incident review at the conclusion of every sexual violence investigation that results in a substantiated or unsubstantiated finding. **(PREA 115.86(a))**
2. Such review shall ordinarily occur within 30 days of the conclusion of the investigation. **(PREA 115.86(b))**
3. The review team shall include:
  - a. Warden or designee;
  - b. Unit managers or other upper-level management team members responsible for the areas of the institution where the incident occurred;
  - c. Shift supervisors involved with the case or the shift on which the misconduct occurred;
  - d. At least one of the sexual violence investigators on the case;
  - e. Medical or mental health practitioners when involved with the perpetrator or the victim;
  - f. Institution's PREA Compliance Manager;
  - g. PREA Coordinator in substantiated cases of staff sexual

misconduct or offender sexual assault. **(PREA 115.86(c))**

4. The review team shall:

- a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual violence;
- b. Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affiliation, or was motivated or otherwise caused by other group dynamics at the institution;
- c. Examine the areas where the incident occurred to assess whether physical barriers in the area may enable abuse;
- d. Assess the adequacy of staffing levels in that area during different shifts;
- e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- f. Prepare a report of its findings using **PREA-02 F-5, *Sexual Abuse Incident Review Report***, and by entry of **Form 5** into the PREA Investigation Database. The report shall include but not necessarily be limited to determinations made pursuant the above, and any recommendations for improvement. The report shall be distributed to the Warden, Institution Operations Deputy Director, Inspector General, the institution's PREA Compliance Manager, and the PREA Coordinator. **(PREA 115.86(d))**

5. The institution shall implement the recommendations for improvement, or shall document its reasons for not doing so. **(PREA 115.86(e))**

L. Protection Against Retaliation

1. The institution shall protect all offenders and staff who report sexual violence or cooperate with investigations from retaliation by other offenders or staff, and shall designate which staff members or institution departments are charged with monitoring retaliation. **(PREA 115.67(a))**

2. The institution shall employ multiple protection measures, such as housing changes or transfers for offender victims or perpetrators, removal of alleged staff aggressors or offender perpetrators from contact with victims, and emotional support services for offenders or staff who fear retaliation for reporting or cooperating with investigations. **(PREA 115.67(b))**
3. For at least 90 days following a report of sexual violence, the institution shall monitor the conduct and treatment of offenders or staff who reported the sexual violence and of offenders who were reported to have suffered sexual violence to see if there are changes that may suggest possible retaliation by offenders or staff, and shall act promptly to remedy any such retaliation. The institution shall monitor any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The institution shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. **(PREA 115.67(c))**
4. In the case of offenders, such monitoring shall also include periodic status checks. **(PREA 115.67(d))**
5. If any other individual who cooperates with an investigation expresses a fear of retaliation, the institution shall take appropriate measures to protect that individual against retaliation. **(PREA 115.67(e))**
6. The obligation to monitor shall terminate if IGO determines that the allegation is unfounded. **(PREA 115.67(f))**
7. The institution shall develop procedures to implement the protection against retaliation requirements and shall document all measures taken and monitoring checks. Tracking for retaliation shall be entered in the PREA Investigation Database.